

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

UNITED MICROELECTRONICS
CORPORATION, *et al.*,

Defendants.

CASE NO.: 3:18-CR-00465-MMC

**LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE PURSUANT TO THE
GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA**

Judge: The Honorable Maxine M. Chesney

TO THE MINISTRY OF JUSTICE OF THE PEOPLE'S REPUBLIC OF CHINA:

The United States District Court for the Northern District of California presents its compliments to the Ministry of Justice of the People's Republic of China (the "Ministry") and requests international judicial assistance to permit Defendant Fujian Jinhua Integrated Circuit Co., Ltd. ("Jinhua") in the above-captioned criminal matter to obtain live witness testimony to be used in the proceeding before this Court in the above-captioned matter. This Court respectfully requests that the Ministry recognize this Letter of Request, issued based on this Court's inherent power, and arrange for its execution in ~~in~~ the interest of comity. This Letter of Request is ~~also consistent with~~ based upon the information provided ~~by the Fujian Provincial Justice Department to Jinhua on June 19 and 20, 2022~~ to the Court by Zheng Jinfu, a Vice-President of Jinhua, and Du Yaling, Director General of the Department of International Cooperation of the Ministry of Justice of the People's Republic of China. Ms. Du stated in correspondence to this Court that the view of the Chinese competent authority ~~was~~ is that approval for live testimony of witnesses in the United States on behalf

of Jinhua ~~needed~~needs to be obtained either through ~~the~~a formal request pursuant to the Agreement between the Government of the United States of America and the Government of the People's Republic of China on Mutual Legal Assistance in Criminal Matters (the "MLAA") or the letters rogatory ~~process~~. According to Ms. Du, "the reason that we believe that a request for criminal judicial assistance is needed in this case is mainly because of the effect of the Court's order extends to the witnesses who live or reside within the territory of the PRC." (Letters from Du Yuling dated July 8, 2022 and July 18, 2022). This Court wishes to clarify to the Ministry of Justice of the People's Republic of China that this Court did not order Messrs. Wu or You to testify. The defendant, Jinhua, requests their trial testimony. The Court ordered that, if Messrs. Wu or You wish to testify in this case, that they do so in person and by a date certain. The original date for their testimony was June 21, 2022. The revised date for their testimony is August 22, 2022. Trial in this matter commenced on February 28, 2022.

This Court requests the assistance described herein as necessary in the interests of justice. This Letter of Request is made pursuant to the Court's inherent powers, and the authority granted under 28 U.S.C. § 1781(b)(2), which provides reciprocal assistance to the Court of the People's Republic of China if future circumstances so require. The particulars of this Letter of Request are as follows:

1. Sender:	The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue San Francisco, CA 94102
2. Authority of the Requested State:	Ministry of Justice of the People's Republic of China Bureau <u>Department</u> of International Cooperation Ministry of Justice of China 33, Pinganli Xidajie Xicheng District Beijing 100035 People's Republic of China Contact Person: SUN Ruiyun

3. Person to Whom the Executed Request Is To Be Returned:	<p>Jack P. DiCanio SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301</p> <p>An officer of the Court on behalf of:</p> <p>The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue, San Francisco, CA 94102</p>
4. Response Date:	<p>The requesting authority respectfully requests that the Ministry respond to the below document as soon as possible, and would be grateful if the Ministry would be kind enough to respond by August 19, 2022.</p>
5. Requesting Judicial Authority:	<p>The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue, San Francisco, CA 94102</p>
6. Name of the Case and Identifying Number:	<p><i>United States of America v. United Microelectronics Corporation, et. al.</i>, Case No.: 3:18-cr-00465-MMC</p>

Parties and Their Representatives:

<p>United States of America</p>	<p>Stephanie M. Hinds, Esq. United States Attorney for the Northern District of California</p> <p>Thomas A. Colthurst, Esq. Chief, Criminal Division, for the Northern District of California</p> <p>Laura Vartain Horn, Esq. Nicholas Walsh, Esq. Assistant United States Attorneys</p> <p>Nicholas O. Hunter, Esq. Stephen Marzen, Esq.</p>
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	Trial Attorneys, National Security Division of the United States Department of Justice
Fujian Jinhua Integrated Circuit Co., Ltd.	<p>Jack P. DiCanio Emily Reitmeier SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301 Telephone: (650) 470-4500 Facsimile: (650) 470-4570</p> <p>Matthew E. Sloan SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 300 South Grand Avenue, Suite 3400 Los Angeles, California 90071-3144 Telephone: (213) 687-5000 Facsimile: (213) 687-5600</p>

Nature and Purpose of the Proceedings:

On September 27, 2018, this case commenced upon the return of a sealed indictment against United Microelectronics Corporation (“UMC”); Fujian Jinhua Integrated Circuit, Co., Ltd. (“Jinhua”); Chen Zhengkun, a.k.a Stephen Chen; He Jianting, a.k.a. J.T. Ho; and Wang Yungming, a.k.a. Kenny Wang. (The indictment was unsealed on or about October 30, 2018). The United States alleged that the defendants violated various criminal statutes related to the misappropriation of trade secrets. The charges stemmed from allegations that the defendants conspired to steal trade secrets related to DRAM semiconductor chips belonging to Micron Technology, Inc.

For its part in the alleged conspiracy, Jinhua was charged with violating: (1) 18 U.S.C. § 1831(a)(5), conspiracy to commit economic espionage; (2) 18 U.S.C. § 1832(a)(5), conspiracy to commit theft of trade secrets; and (3) 18 U.S.C. §§ 1831(a)(3) and 2, economic espionage (receiving and possessing stolen trade secrets). The maximum penalties for each violation of § 1831 is: (1) A fine not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including the expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided; (2) Restitution; (3) Asset Forfeiture; and (4) a \$400 special assessment. The maximum penalty for the violation of § 1832 is: (1) A fine not more than the greater of \$5,000,000 or 3 times the value of the stolen trade secret to the organization, including

the expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided; (2) Restitution; (3) Asset Forfeiture; and (4) a \$400 special assessment. Infringement upon trade secrets is illegal under the Anti-Unfair Competition Law of the People's Republic of China.

On February 28, 2022, the trial of Defendant Jinhua commenced. Following five weeks of testimony, on April 4, 2022, the government rested. Jinhua then presented testimony from one witness for three days. At that point, on April 6, 2022, trial was adjourned and continued to a future date. ~~As~~ Jinhua is incorporated and based in the People's Republic of China, ("PRC"). Jinhua represents that the remaining witnesses necessary for it to present its defense are all located in the PRC. ~~But due to a combination of COVID-19 related complications and health issues, none of those witnesses have been able to travel to the United States for trial. Two~~ This Letter of Request relates to the testimony of two of Jinhua's witnesses ~~are now~~ whom the Court has been told are physically able to travel to the United States for trial to provide live, in-person testimony and are willing to do so if this Letter of Request is approved.

Request for Assistance

Jinhua's witnesses You Zhenfu (Jeff Yu) and Wu Junsheng are willing to testify in-person in the United States, ~~but the Court is aware that, on October 26, 2018, the People's Republic of China enacted the International Criminal Judicial Assistance Law. As noted above, Jinhua has been informed the Fujian Provincial Justice Department~~ Ms. Du has stated that the view of the Chinese competent authority is that, pursuant to the International Criminal Judicial Assistance Law, approval by the Chinese competent authorities is needed for ~~the~~ Jinhua to be able to present live testimony of ~~its~~ witnesses in court in the United States ~~on behalf of Jinhua.~~ because the PRC believes that this Court ordered their testimony. To the extent that the PRC believes this Letter Rogatory is necessary because of any order of this Court, this Court reiterates that the testimony of Messrs. You and Wu is not compelled, ordered, or otherwise required or requested by this Court.

The Court, in the spirit of comity and reciprocity, hereby requests international judicial assistance in the form of this Letter of Request to the Ministry of Justice of the People's Republic of

China ~~seeking the consent of the~~ asking the Chinese competent authorities ~~of the People's Republic of China for~~ to allow Jinhua to present the testimony of You Zhenfu (Jeff Yu) and Wu Junsheng ~~to give evidence~~. The evidence will be taken in the form of a live, in-person oral examination of the witnesses, in a courtroom in San Francisco, California, ~~in the~~ in the United States, with questions potentially asked by counsel for Jinhua, counsel for the United States government, and/or the ~~judge~~ United States District Judge. While Mr. You and Mr. Wu are in the United States for testimony in this case, the United States Attorney for the Northern District of California, the Counterintelligence and Export Section of the National Security Division, and the Federal Bureau of Investigation (collectively, "the United States government") agree not to serve (with the exception of a trial subpoena to testify in this case), arrest, detain, or otherwise take any action that would prevent either Mr. You or Mr. Wu from freely leaving the United States for conduct that occurred prior to either Mr. You or Mr. Wu's entry into the United States.

Name	Address	Gender	Occupation
You Zhenfu	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Human Resources, Jinhua
Wu Junsheng	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Finance, Jinhua

Questions To Be Addressed in Testimony

You Zhenfu	<ol style="list-style-type: none"> 1. The witness's background and relationship to UMC and Jinhua. 2. The recruitment of employees to work on UMC's DRAM development. 3. The implementation of the Talent Retention Bonus Program and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationships with UMC and Jinhua. 4. The witness's attendance with UMC and Jinhua employees at events in the United States.
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Wu Junsheng

1. The witness's background and relationship to Jinhua.
2. The Talent Retention Bonus Program and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationship to Jinhua.
3. Jinhua and UMC's agreement concerning the procurement of tools.
4. Chen Zhengkun's (Stephen Chen) relationship to Jinhua.
5. Jinhua's payments to UMC.

Reciprocity

The United States District Court for the Northern District of California is willing to provide similar assistance to the judicial authorities of the PRC.

Reimbursement for Costs

The fees and costs incurred by the Ministry of Justice of the People's Republic of China in executing this Request will be borne by Defendant Jinhua.

Date: _____

 The Honorable Maxine M. Chesney
 United States District Court for the
 Northern District of California
 San Francisco Courthouse
 Courtroom 7 – 19th Floor
 450 Golden Gate Avenue,
 San Francisco, CA 94102